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October 5, 1999

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
Room TW-A324
445 Twelfth Street, SW
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Calling Party Pays Service Offering in the Commercial Mobile
Radio Service, WT Docket No. 97-207

Dear Ms. Salas:

Enclosed for filing in the referenced proceeding are the original and four copies of the Erratum to Joint Comments the Ad Hoc Telecommunications Users Committee and ACUTA: The Association of Telecommunications Professionals in Higher Education. The Ad Hoc Committee and ACUTA filed their Joint Comments on September 17, 1999, but subsequently discovered that the document required certain non-substantive corrections to typographical and production errors, as well as non-substantive clarification of a few sentences. The accompanying Erratum contains these corrections and clarifications, but otherwise is identical to the Joint Comments of Ad Hoc and ACUTA filed September 17.

Specifically, the Erratum: (1) corrects typographical errors in the Table of Contents, and on pages 2, 6-10, 14-15, 18, 20, 23-24, and 26-28; (2) clarifies language on pages 1, 3 (note 3), 5, 8, 10, 13, 16, 19, 23, 29, and 30; and (3) it attaches a study by ACUTA, which was cited in, but omitted from, the original Joint Comments.

If you have any questions regarding this filing, please do not hesitate to call me at (202) 857-2560.

Respectfully submitted,



Kevin DiLallo
Counsel to
Ad Hoc Telecommunications Users Committee and
ACUTA

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
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Calling Party Pays Service Offering)	WT Docket No. 97-207
in the Commercial Mobile Radio Services)	

ERRATUM TO JOINT COMMENTS OF THE
AD HOC TELECOMMUNICATIONS USERS COMMITTEE
AND
ACUTA: THE ASSOCIATION OF TELECOMMUNICATIONS
PROFESSIONALS IN HIGHER EDUCATION

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Telecommunications Professionals in
Higher Education

October 5, 1999

Summary

The Ad Hoc Telecommunications Users Committee ("Ad Hoc") and ACUTA: The Association of Telecommunications Professionals in Higher Education ("ACUTA") share a common objective in this proceeding: to persuade the Commission not to adopt any Calling Party Pays ("CPP") proposal unless it includes safeguards allowing large telecommunications users, including those represented herein, to make meaningful, fully informed decisions before incurring charges for calls from their premises to CPP numbers, which decisions are -- and should be here -- the *sine qua non* for subscriber responsibility for telecommunications charges.

The longstanding principle of contract privity requires that the party *billed* for a CPP call have, at a minimum, the opportunity to make a meaningful, informed decision whether or not to incur the charge associated with the call; otherwise, the billed party can not be held responsible for the charge. The Commission has asked only whether privity is necessary between a CPP carrier and the party who *places* a CPP call. For institutional subscribers, this is the wrong question. Such subscribers may be billed for CPP calls placed from their facilities by others; therefore, the pivotal issue for institutional subscribers is whether the *billed* party, not the *calling* party, is in privity with the CPP carrier imposing the charge. Such privity may be (but is not necessarily) established by the existence of an opportunity for the subscriber to make a fully informed, meaningful decision whether or not to incur CPP charges before such charges accrue.

If institutional telecommunications users are unable to make such decisions before incurring CPP charges, they will be potentially liable for monumental CPP charges, estimated to be as high as \$7 Billion annually, in the aggregate. Because almost all medium and larger institutional subscribers use PBXs or Centrex systems, those systems must be capable of screening for, blocking, and recording call detail for, all CPP calls placed through them; otherwise, the subscribers will have no control over CPP calling, and will have enormous financial exposure for unauthorized, uncollectable, and unbudgeted CPP charges.

Presently available PBX and Centrex systems can recognize CPP numbers, and implement subscribers' processing instructions for calls to such numbers only if CPP numbers have unique components that distinguish them from non-CPP numbers. For years, subscribers have managed their telecommunications costs by programming their PBXs and Centrex systems to process calls according to the subscribers' instructions, based on the call rating function of most North American Numbering Plan ("NANP") numbers. In the same way, and at virtually no cost, users could program their PBXs and Centrex systems to recognize calls to CPP numbers, if they are distinguishable for non-CPP numbers.

Although a variety of potential numbering solutions exist, the most cost-effective approach would be to assign unique Service Access Codes ("SACs") (sometimes known as "Service Area Codes") to CPP subscribers. The assignment of CPP-specific SACs would give institutional users a cost-effective,

reliable means of controlling the use of their premises to place CPP calls, and thereby limiting their risk of exposure to unwanted CPP charges.

Aside from a numbering approach, the only alternative that even theoretically offers some relief to institutional users is the adoption of a signaling-based plan. Such a plan would require the carrier receiving a call to determine whether the call is to a CPP number, and to send a signal, including rate information, to the originating carrier, which would relay the information to the caller and, where applicable, the caller's PBX or Centrex. This proposal is far inferior to a numbering approach for many reasons. Principally, current and reasonably foreseeable PBX technology will not accommodate such signaling, according to representatives of major equipment vendors. Thus, existing PBXs would have to be upgraded or replaced at substantial cost to users, estimated to be between \$5 Billion and \$10 Billion in the aggregate, depending on several variables -- billions more than a CPP-specific SAC approach. In addition, a signaling approach would require CPP and other terminating carriers to ensure the prompt and accurate transmission of necessary information, a responsibility that increases risks such as miscommunication and untimely delivery of information, but which is absent from the CPP-specific SAC approach.

The Commission should closely examine some of the principal assumptions underlying its proposals in the NPRM, and it should consider its own previous approach to charges imposed on a calling party by a carrier that the called, rather than the calling, party has selected.

The Commission has suggested that adoption of CPP will stimulate wireless usage in this country, based on the experience with CPP in other countries. Because the Commission seeks to increase domestic wireless usage, it seems to view the adoption of CPP as a means of achieving that objective. Actual experience abroad provides no support for, and indeed refutes, this line of reasoning.

Numerous factors other than CPP have influenced the growth of wireless service in foreign countries. The sheer number and significance of these factors make it impossible to isolate CPP as the stimulus for wireless growth in those countries. Moreover, conditions that are far more material than the existence of CPP are present in foreign countries and overshadow the role of CPP as a cause of wireless growth. Notably, however, in each foreign country we have surveyed, CPP calls are identified by distinguishable numbering schemes, and the number of wireless carriers is far smaller than in the United States.

Finally, the Commission should consider in this proceeding its reasoning in the casual calling context with regard to protection of callers from excessive charges by carriers they do not select. Given the obvious similarities between the two scenarios, the Commission is obligated to at least address its earlier approach.

Table of Contents

	<u>Page</u>
SUMMARY	ii
INTRODUCTION.....	1
DISCUSSION.....	2
I. ADOPTION OF A CALLING PARTY PAYS SERVICE OPTION POSES SIGNIFICANT FINANCIAL RISK TO LARGE USERS OF TELECOMMUNICATIONS SERVICES.....	2
A. A Large Variety of Users Face Potential Adverse Consequences if CPP is Adopted without Safeguards.....	5
B. The Aggregate Cost to Users of CPP Calls is Difficult to Determine But Could Reach \$7 Billion.	6
II. COMMISSION PRECEDENT AND THE PRINCIPLE OF CONTRACT PRIVITY SUPPORT THE ADOPTION OF SAFEGUARDS TO ALLOW USERS TO CONTROL CALLS TO CPP NUMBERS	8
A. The Commission's Earlier Reasoning Regarding Excessive Terminating Access Charges is Applicable Here, Because in Both Cases the Calling Party Pays Charges Imposed by a Carrier Selected by the Called Party	8
B. The Absence of Privity Between the Party Paying for a CPP Call and the Carrier Setting the Rate for the Call Would Be Unjustifiable in the Case of Large Users Who Have No Role in the Decision to Place the Call.....	11
III. THE COMMISSION SHOULD IMPLEMENT CPP ONLY IN A MANNER THAT WOULD PERMIT THE PAYING PARTY TO TRACK AND BLOCK CPP CALLS FROM ITS PREMISES, WHICH SIGNALING "SOLUTIONS" WOULD NOT ALLOW	13
IV. THE MOST EFFICIENT MEANS FOR IDENTIFYING CPP TRAFFIC IS THROUGH THE USE OF UNIQUE SERVICE ACCESS CODES.....	15
V. FUNDAMENTAL DIFFERENCES BETWEEN WIRELESS PHONE SYSTEMS IN THE U.S. AND ABROAD MAKE IT IMPOSSIBLE TO APPLY INTERNATIONAL EXPERIENCE TO THE INTRODUCTION OF CPP IN THIS COUNTRY.....	23
A. Fundamental Differences Exist Between Wireless Systems in the U.S. and Those in other Countries and Strongly Impact the Likely Success of CPP from the User's Standpoint	24

B.	The Existence in Other Countries of a Uniform, Message-Unit System of Pricing Applicable to Both Wireline and Wireless Calling Represents Another Fundamental Difference with the U.S.	28
C.	Increased Wireless Usage in Other Countries is Attributable to Many Factors That Are Much More Significant than Availability of CPP	30
CONCLUSION		32
Attachment 1:	<i>ACUTA, Report on Survey of Unauthorized Telecommunications Charges</i>	

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PROFESSIONALS IN HIGHER EDUCATION

The Ad Hoc Telecommunications Users Committee ("Ad Hoc" or the "Ad Hoc Committee") and ACUTA: The Association of Telecommunications Professionals in Higher Education ("ACUTA") submit this Erratum to Joint Comments on the Commission's Notice of Proposed Rulemaking in the captioned proceeding, FCC 99-137 (released July 7, 1999) ("NPRM").

INTRODUCTION

The members of the Ad Hoc Committee are some of the nation's largest corporate users of telecommunications services, collectively spending billions of dollars annually on telecommunications services. As a group, the Ad Hoc Committee's members employ over a million workers.

ACUTA represents some 825 colleges and universities through their telecommunications administrators. On average, each of ACUTA's member

institutions furnishes telecommunications services and facilities to over 2,509 residential students¹ and over 1,900 full-time equivalent faculty and staff.

As large, institutional users of telecommunications services, the members of Ad Hoc and ACUTA share compelling interests in the outcome of this proceeding. In particular, Ad Hoc and ACUTA are concerned that their members will face significantly increased financial liability for telecommunications charges if the Commission adopts a Calling Party Pays ("CPP") service option without appropriate safeguards to allow large users to restrict calls from their facilities to CPP numbers.

DISCUSSION

I. ADOPTION OF A CALLING PARTY PAYS SERVICE OPTION POSES SIGNIFICANT FINANCIAL RISK TO LARGE USERS OF TELECOMMUNICATIONS SERVICES.

The Commission has correctly recognized that "businesses need to restrict the ability of telephone users to make various types of billable calls from certain lines"² The corporations, colleges, and universities represented in these Joint Comments make large numbers of outgoing lines available to their employees, students, and (occasionally) visitors, and therefore must control the use of those lines to minimize their potential liability for unforeseen, unauthorized, and unrecoverable telecommunications charges.

¹ Approximately half of ACUTA's represented institutions have at least 4,600 enrolled students each.

² NPRM at ¶ 46.

For example, corporations (and other large and medium-sized businesses)³ typically use either a PBX or a Centrex system that can be programmed to block calls to pay-per-call (*i.e.*, 900) numbers and to record the called number and duration of each long-distance call placed over it. Almost all colleges and universities use PBXs or Centrex systems that perform similar functions. Educational institutions may also program their PBXs or Centrex systems to block long-distance or toll calls placed from telephones in public areas (such as dormitory halls) unless callers use a calling card or some third-party billing arrangement (*e.g.*, calling collect).

Programming a PBX or Centrex switch for these purposes is relatively simple, since such devices can readily identify long-distance calls by screening for an area code or NXX code outside the caller's local calling area; and they can spot calls to pay-per-call services by the "900" Service Access Code ("SAC")⁴ assigned to such services. A PBX or Centrex system that has been programmed in this way can also require callers placing long-distance calls to enter a client, department, or similar accounting code before it will transmit the digits for such calls. Many businesses and educational institutions use these codes to track their long-distance usage, recover their telecommunications charges from the appropriate clients, or assign the charges to the appropriate departmental budgets. Absent controls such as these, unauthorized, unaccountable, and/or unrecoverable telecommunications

³ Even many small businesses use PBX or Centrex arrangements, and therefore may have at least some of the same concerns regarding CPP as the organizations represented in these Joint Comments.

⁴ In the NPRM, the Commission refers to codes such as these as "Service Area Codes." NPRM at ¶ 41.

charges could easily accrue and quickly break the budget of any institution, whether it is a small, non-profit college or a multi-national Fortune 500 company.

A CPP service option could place the members of Ad Hoc and ACUTA -- and many other organizations -- at risk for exponentially greater telecommunications charges. If CPP numbers are indistinguishable from other local numbers, PBXs and Centrex switches will not be able to recognize them and either block, restrict, or record call detail for, calls to such numbers. Consequently, large users will be unable to control the use of their telecommunications services to place calls to CPP numbers, and may be saddled with enormous uncollectable and/or unaccountable charges for such calls.

Through a Station Message Detail Recording ("SMDR") system associated with its PBX or Centrex, an organization can easily associate the cost of a toll call with the originating station line. This association of charges with specific stations is necessary for effective cost management of telecommunications costs in a large organization. For businesses, associating calls with particular divisions or departments is used for budgeting and charge-back purposes. In college and university environments, call tracking is used to ensure that the student or employee placing the call can be identified so that an appropriate bill for the charges that call incurred can be generated.

If CPP is implemented in a manner that makes the phone number of a CPP subscriber indistinguishable from a wireline number, however, a PBX will be unable to recognize the call as incurring a charge. The PBX will transmit the dialed CPP numbers, permit the call to connect, and the charges will be incurred.

The bill, however, will only associate the charges with the trunk line and the owner of the trunk will have no ability to associate the charges with a particular station. In a large organization with thousands of employees or in a university environment with large, transient student populations, it becomes difficult, if not impossible, to find out who made the call from the information contained on the monthly invoice.

If implemented without proper safeguards, CPP threatens to exacerbate an existing problem. A recent survey conducted by ACUTA reveals that 75% of the member institutions responding to the survey encounter unauthorized charges on their telecommunications every month.⁵ Furthermore, its members must dedicate approximately eleven hours per month on average to address the issues associated with the billing of unauthorized charges.⁶

A. A Large Variety of Users Face Potential Adverse Consequences if CPP is Adopted without Safeguards.

The potential cost of implementing CPP is greatly increased by the sheer number of industries and organizations that would be directly affected by the reversal of charges caused by a CPP regime. Among the groups most likely to be affected are corporations, hotels and motels,⁷ colleges and universities, and federal and state government agencies. In essence, any entity with multiple lines

⁵ ACUTA, *Report on Survey of Unauthorized Telecommunications Charges*, Frequency of Unauthorized Charges on Monthly Bill, (1999), attached hereto as Attachment 1.

⁶ *Id.* at Staff Hours Per Month Spent Dealing with Unauthorized Charges.

⁷ See, e.g., Comments of the American Hotel & Motel Association in WT Dkt. No. 97-207 (filed August 18, 1999).

accessed by multiple users will likely incur unauthorized charges on its monthly invoice unless there is a means for tracking or blocking calls to CPP subscribers.

B. The Aggregate Cost to Users of CPP Calls is Difficult to Determine But Could Reach \$7 Billion.

Despite efforts to determine the potential financial exposure their members may face from unauthorized or unrecoverable CPP calls, uncertainties about CPP rates and the number of wireless subscribers who will elect CPP make accurate estimates extremely difficult.

In response to the Commission's request for information in paragraph 46 of the NPRM, however, Ad Hoc and ACUTA have developed an estimate of the range of costs that would be transferred to calling parties under CPP. Based on an average nationwide wireless rate of \$0.28 per minute of use ("MOU")⁸ and a wireless call volume of 118.8 billion minutes per year,⁹ and assuming that CPP calls will account for between 10% and 20% of all wireless minutes,¹⁰ calling

⁸ The average wireless rate of \$0.28 was determined by taking the average local monthly wireless bill of \$39.43, see Cellular Telecommunications Industry Association, *Wireless Industry Posts 'Astonishing' Subscriber Increase of 13,897,028 New Subscribers in 1998* (April 1, 1999) <<http://www.wom-com.com>>, and dividing by 143 minutes which is the average number of minutes of use per month per wireless subscriber, see FCC, *Fourth Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services*, FCC 99-136 (June 24, 1999) ("FCC CMRS 1998 report") at 25.

⁹ The estimate of wireless volume per year was derived by multiplying the average number of minutes per month per wireless subscriber by the total number of wireless subscribers, and then by 12 [*i.e.*, 143 x 69,209,321 x 12]. See FCC CMRS 1998 report; Cellular Telecommunications Industry Association, *CTIA's Semi-Annual Wireless Industry Survey Results*, (December 1998) <<http://www.wow-com.com/wirelessurvey/1298datasurvey1.gif>>

¹⁰ Estimating the percentage of subscribers who will switch to CPP is difficult; however the wireless carriers have represented that there is significant pent-up demand for CPP service. See, *e.g.*, Reply Comments of AirTouch Communications, Inc. on NOI, in CC Docket No. 97-207 (Jan. 16, 1998) ("AirTouch NOI Reply Comments") at ii; Reply Comments of Sprint Spectrum L.P. d/b/a Sprint PCS to NOI in CC Docket No. 97-207 (Jan. 16, 1998) ("Sprint NOI Reply Comments") at 1-2.

parties could assume the burden of paying an estimated \$3 billion to \$7 billion per year in CPP charges.

This estimate is based upon two very conservative assumptions: First, the estimated CPP charge per MOU is assumed to equal the existing average rate per MOU for a wireless call of \$0.28. The CPP charge per MOU could well be set much higher than that, given that much less competitive pressure will exist to keep rates low for inward calling. Second, the number of minutes per year used in the calculation reflects unstimulated minutes. Wireless providers have asserted that the implementation of CPP charges will greatly stimulate wireless calling volumes.

As the markets for local, long distance, and wireless services have gradually become more competitive, users now enjoy increasing choices among carriers with services offered at gradually decreasing rates. Large users of telecommunications services dedicate significant resources to the negotiation of rates, terms, and conditions with their carriers to obtain the most cost-effective services available. If implemented without appropriate safeguards, however, CPP would threaten to undermine downward cost pressure on wireless carriers by transferring the cost of wireless service away from the party responsible for causing service costs. With CPP, the called party has the greatest ability to affect the rates the CMRS provider charges, and the calling -- and paying -- party can not affect those rates by "voting with its feet" and obtaining service from a CMRS provider with more competitive pricing. This turns Commission policy on its head.

II. COMMISSION PRECEDENT AND THE PRINCIPLE OF CONTRACT PRIVITY SUPPORT THE ADOPTION OF SAFEGUARDS ALLOWING USERS TO CONTROL CALLS TO CPP NUMBERS.

The adoption of CPP would mark a departure from past Commission precedent and the longstanding principle of privity of contract. While the adoption of safeguards, such as those proposed herein, may not wholly justify such departures, the implementation of CPP without such safeguards would only highlight CPP's inconsistency with past policies and practice and make CPP more difficult to rationalize.

A. The Commission's Earlier Reasoning Regarding Excessive Terminating Access Charges Is Applicable Here, Because in Both Cases the Calling Party Pays Charges Imposed by a Carrier Selected by the Called Party.

In the *Access Charge Reform First Report and Order*,¹¹ the Commission stated that

unlike originating access, the choice of an access provider for terminating access is made by the recipient of the call. The call recipient generally does not pay for the call and, therefore, is not likely to be concerned about the rates charged for terminating access. We suggested [in the *Access Charge Reform NPRM*¹²] that neither the originating caller nor its long-distance service provider can exert substantial influence over the called party's choice of terminating access provider.

¹¹ *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charges*, CC Dkts. Nos. 96-262, 94-1, 91-213, 95-72, First Report and Order, 12 FCC Rcd 15982, 16135, ¶ 349 (1997), *subsequent history omitted*.

¹² *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, Usage of the Public Switched Network by Information Service and Internet Access Providers*, CC Dkts. Nos. 96-262, 94-1, 91-213, 96-263, Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry, 11 FCC Rcd 21354 (1996), *subsequent history omitted*.

The Commission had earlier expressed concerns that "[b]ecause the paying parties do not choose the carrier that terminates their interstate calls, competitive LECs [as well as incumbent LECs] potentially could charge excessive prices for terminating access."¹³ In the *Access Charge Reform First Report and Order*, the Commission concluded that regulation of ILECs' terminating access charges was necessary because competition was insufficient to "address the potential that [ILECs] could charge unreasonable rates for terminating access."¹⁴ It expressed doubt that "a significant competitive impact would result from changes in calling patterns between pairs of callers."¹⁵

These same concerns are present in the context of calls to CPP numbers, for which the party who pays for the call is not the party who selects the wireless carrier that charges for the call. Indeed, the Commission acknowledged in the NPRM¹⁶ that

[d]irect competitive pressure on the rate does not exist in the case of a call to a CPP subscriber, . . . because the caller does not select the carrier and does not have the ability to switch to a different carrier to obtain a better rate for completing the call. The caller can only elect to complete the call at the price charged by the CMRS carrier that serves the called

¹³ *Access Charge Reform NPRM*, *supra*, note 12, 11 FCC Rcd at 21476, ¶ 279 (footnote and citations omitted).

¹⁴ *Access Charge Reform First Report and Order*, *supra*, note 11, 12 FCC Rcd at 16136, ¶ 353. In contrast, the Commission concluded that it was unnecessary to regulate CLECs' terminating access charges. The Commission explained that the record before it indicated that CLECs' rates were equal to, or lower than, those of ILECs, and that competitive pressures would discipline CLECs' rates going forward. *Id.*, 12 FCC Rcd at 16140, ¶ 360. There is no basis for either of these rationales in the context of CPP.

¹⁵ *Id.*, 12 FCC Rcd at 16136, ¶ 353.

¹⁶ NPRM at ¶ 53.

party, or terminate the call prior to its completion to avoid any charges. In the CPP context, there is only indirect competitive control on these rates, in that the CPP subscriber might ultimately switch to a different carrier with a better rate for incoming calls if excessive rates charged by its carrier result in the CPP subscriber not receiving its incoming calls, or might ultimately terminate the CPP option.

Although the Commission squarely addressed these considerations (in the Access Charge Reform First Report and Order) with respect to terminating access charges, here, it has inexplicably failed to mention -- much less distinguish -- either its reasoning or its conclusions in that context. These omissions could, if never addressed, be fatal to the adoption of CPP. If the Commission adopts CPP, it should, at the very least, explain its departure from the reasoning in the *Access Charge Reform* proceeding, specifying why it is less concerned about excessive CPP rates than about excessive terminating access charges.

The adoption of safeguards (such as those proposed herein) that would allow users to restrict calls to CPP numbers could provide at least some justification for the Commission's apparent change of course. If parties who would otherwise pay for CPP calls (e.g., institutional subscribers), could block, or have some hope of recovering the charges for such calls, they would have at least minimal alternatives to being unwittingly subjected to excessive CPP charges.

Indeed, the ability of large users to block CPP calls would itself help to constrain CPP price levels: If CPP charges are reasonable and generally

comparable to price levels associated with wireline calls for which PBX users are customarily charged, users would likely be more willing to pay for CPP calls and to permit such calls to be completed through their systems. If CPP price levels are set (as some trial rates have been) in the 30-to-40-cents-per-minute range, it is highly unlikely that corporate, educational, and other institutional users would find such price levels acceptable and be willing to allow CPP calls to be completed.

In short, the availability of a reasonable blocking option for subscribers who could be charged for CPP calls should be a prerequisite to the adoption of CPP.

B. The Absence of Privity Between the Party Paying for a CPP Call and the Carrier Setting the Rate for the Call Would Be Unjustifiable in the Case of Large Users Who Have No Role in the Decision to Place the Call.

The Commission has requested comment on whether its proposed verbal notification, including rate information, prior to a CPP call would be sufficient to establish a contractual relationship between the party placing the call and the wireless CPP carrier, if the calling party decides to complete the call following the notification.¹⁷ Fundamental fairness precludes the Commission from adopting CPP without an irrefutable demonstration that every party who is charged for a call to a CPP number will have privity of contract with the wireless carrier that sets the charge.

Such privity can not be established in the case of large users, such as those represented in these Joint Comments, unless they have some role in the

¹⁷ NPRM at ¶ 52.

decision whether to place CPP calls. Where a call originates from a business or institution where the *calling* party may not be the *billed* party, the *billed* party, *i.e.*, the institutional subscriber, must be in privity with the wireless carrier imposing CPP charges or be free from any obligation to pay those charges. Privity in this instance requires that the subscriber -- again, the billed, not necessarily calling, party, have *both* complete information regarding the charges associated with a call *and* a meaningful opportunity to prevent calls based on that information. Even if a large user has rate information, if it does not have a reasonable opportunity to block calls to CPP numbers, it can not be deemed to have agreed to pay the charges for such calls.

Even if the Commission concludes that some form of notification establishes privity between a CPP carrier and an individual *caller*, it does not follow that such notification establishes privity between the CPP carrier and the *subscriber charged for the call*. Although it is critical, the Commission has not acknowledged the need for the latter form of privity in the NPRM.

The absence of *subscriber* privity is glaring in the case of large users, who may be charged for all CPP calls placed from their facilities. The individual caller, not the institutional subscriber, will hear the notification and decide whether to place a CPP call. Unless the institutional subscriber has a reasonable option for blocking or otherwise controlling calls to CPP numbers, it may not be

deemed to have consented to, and therefore has no legal obligation to pay, the charges for such calls.¹⁸

If the Commission adopts the safeguards (such as a unique CPP SAC) proposed herein, some justification might (but will not necessarily) exist for finding privity between institutional subscribers who fail to block CPP calls from their premises and the carriers who charge for such calls. Without reasonably available safeguards to give all subscribers a meaningful opportunity to decide whether or not to incur CPP charges, the Commission should not adopt a CPP service option.

III. THE COMMISSION SHOULD IMPLEMENT CPP ONLY IN A MANNER THAT WOULD PERMIT THE PAYING PARTY TO TRACK AND BLOCK CPP CALLS FROM ITS PREMISES, WHICH SIGNALING "SOLUTIONS" WOULD NOT ALLOW.

The Commission has asked whether signaling-based solutions, rather than the use of telephone numbers to convey rating information, are a feasible alternative to support the blocking or tracking of CPP charges.¹⁹ When numbers are used to convey rating information, as is the case today, the calling party (whether an individual consumer or a mechanized system such as a PBX) can

¹⁸ In the NPRM, the Commission referred to its earlier decision that, under some circumstances, privity may be implied in the case of some casual calling services. NPRM at ¶ 51 & note 130 (citing *Policy and Rules Concerning the Interstate, Interexchange Marketplace -- Implementation of Section 254(g) of the Communications Act of 1934, as amended*, CC Dkt. No. 96-61, Order on Reconsideration, 12 FCC Rcd 15014 (1997) ("*Casual Calling Reconsideration Order*") at 15031-32, ¶ 28). This decision is inapposite to the issue of subscriber privity for large users, which the Commission did not address. Indeed, subscriber privity is irrelevant to casual calling services, which the Commission has described as "services such as collect calling, the use of a third-party credit card, or dial-around through the use of an access code." *Casual Calling Reconsideration Order*, 12 FCC Rcd at 15026, note 74. Such services do not pose the same risk of financial exposure that CPP would pose to subscribers whose facilities are used to place a call.

¹⁹ NPRM at ¶ 47.

map the called number to a geographic location or special service category, and, on that basis, can determine how the call will be charged. Under a signaling-based rating scheme, the rating status of the call (e.g., local or toll) would be determined by the carrier receiving the call, which would transmit the information back to the originating carrier utilizing some type of Signaling System 7 (or equivalent) protocol. The originating carrier would then be required to transmit this information to the caller, and, where the call originates from a PBX or Centrex station line, the signaling information would need to be in a form that the PBX or Centrex equipment can receive, translate, and process.

This approach, while theoretically feasible, is not currently viable, nor is it likely to become viable in the near future. Communications between certain of Ad Hoc's and ACUTA's members and leading equipment vendors indicate that none of the major PBX vendors currently manufactures a system that can recognize signaling that would notify the PBX that a CPP call is being placed, enabling the PBX to record or block the call. Furthermore, these vendors have not indicated that any such product offerings are forthcoming. Even if such product offerings do become available, the average technology refresh cycle indicates that next-generation PBXs would not be widely deployed in the private sector for at least 5 years, and in the educational sector (where PBXs tend to have a longer lifespan), for at least 10 years.

According to industry statistics,²⁰ some 6.6 million PBX and Centrex trunks are currently in use nationwide, translating roughly to 66 million station lines.

²⁰ FCC, Preliminary Statistics of Communications Common Carriers (as of December 31, 1998), Table 2.10, "Operating Statistics of Reporting Local Exchange Carriers." Although the

Even at an estimated upgrade cost of only \$50 to \$100 per station line, PBX users would collectively incur enormous costs to upgrade their PBXs to interpret signaling that includes call rating information. Those whose PBXs could not be upgraded -- and thus would have to be replaced by equipment capable of interpreting and processing call rating-type signaling -- might spend \$200 - \$300 per line, if not more. Depending on the ratio of upgradable to non-upgradable equipment, the aggregate cost to PBX users of accommodating call-rating-type signaling could run as high as \$5 to \$10 billion. Business, educational, and other institutional subscribers should not be forced to incur costs of this magnitude merely to accommodate a CMRS option they did not elect and, indeed, should not be forced to bankroll when other parties elect it.

It would be poor public policy and a serious misallocation of economic resources to require business, educational, and other institutional users to bear such a heavy financial commitment to obtain little, if any, benefit themselves. The significant resources required to upgrade PBX capabilities far outweigh the claimed (and at best, relatively small) benefit that might be gained by using CPP numbers that are indistinguishable from non-CPP numbers, a speculative benefit that the wireless CPP subscriber might enjoy, but for which it will incur no financial responsibility.

IV. THE MOST EFFICIENT MEANS FOR IDENTIFYING CPP TRAFFIC IS THROUGH THE USE OF UNIQUE SERVICE ACCESS CODES.

data is reported for both PBX and Centrex trunks, we have assumed that the majority of the trunks are associated with PBXs.

Telephone numbering systems, such as the North American Numbering Plan ("NANP") perform two basic functions — call *rating* and call *routing*. Under the present structure of the NANP (with one major exception), the applicable charges for a given telephone call can always be determined unambiguously on the basis of the *called* telephone number. For telephone numbers with a *geographic* identity, the Area Code and NXX code, constituting the first six digits of the called number, uniquely identify the geographic location, including the jurisdiction within which the called number resides, thereby permitting the caller to determine (a) whether the call is interstate or intrastate, (b) whether the call is local or toll, and (c) if a local or toll charge applies, the precise amount of that charge.

In most cases, the NPA-NXX codes included within the subscriber's local calling area, as well as the applicable charges for local and intraLATA toll calls, are published in local white pages telephone directories. For interLATA calls, the customer can readily obtain this information from any of the various interexchange carriers that offer long distance service, including the carrier the subscriber selects for "presubscription" (the "Primary Interexchange Carrier" or "PIC"). Calls without a specific geographic location identity are assigned numbers in so-called Service Access Codes ("SACs") that take the place of geographic area codes in the NANP.

For example, calls to the 800, 888 and 877 SACs are toll-free to the calling party, with the applicable charges for such calls being paid by the called party, who is the 800/888/877 customer. Calls to the '700' SAC are routed to the

IXC selected by the calling party (either as the PIC or via dial-around 101XXXX), and are used to invoke special services furnished by that carrier for which special charges apply. Calls to '900' information services numbers are routed to the carrier selected by the '900' customer (the "sponsor") and are subject to special charges established by the sponsor.

Calls placed to SACs are the exception to the call rating scheme described above. Except for the toll-free SACs, for which no charge to the calling party applies, calls to other SACs (e.g., '900') are established for each specific 10-digit number by the sponsor of the information service. Unlike the case of geographic numbers, where the charge can be unambiguously determined from the called number, it is not possible to determine, *a priori* on the basis of the called number, precisely what the charge will be. Callers to SACs such as '900,' however, are on notice *in advance of placing the call* that additional charges will apply, and the Communications Act²¹ as well as the Commission's Rules²² require sponsors to disclose publicly all relevant pricing information in their advertisements or promotions for information services accessed via '900' numbers.

The use of the '900' SAC for all such calls alerts callers to the incidence of such additional charges, and permits callers to adopt measures designed to minimize or eliminate altogether the imposition of such charges on telephone accounts for which they may be responsible. For example, many LECs offer

²¹ 47 U.S.C. § 228.

²² See 47 C.F.R. §§ 64.1501- 64.1504, 64.1509-64.1510.